(2014) 01 P&H CK 0306

High Court Of Punjab And Haryana At Chandigarh

Case No: Income Tax Appeal No. 58 of 2013 (OandM)

Commissioner of Income Tax		APPELLANT
	Vs	
Jagjit Singh Chahal		RESPONDENT

Date of Decision: Jan. 28, 2014

Acts Referred:

- Income Tax Act, 1961 - Section 143(1), 260A

Citation: (2014) 369 ITR 260

Hon'ble Judges: Anita Chaudhry, J; Ajay Kumar Mittal, J

Bench: Division Bench

Advocate: Denesh Goyal, Advocate for the Appellant

Judgement

Ajay Kumar Mittal, J.

This appeal has been filed by the Revenue under section 260A of the Income-tax Act, 1961 (in short "the Act"), against the order dated September 27, 2012, passed by the Income-tax Appellate Tribunal, Amritsar Bench, Amritsar (hereinafter referred to as "the Tribunal") for the assessment year 2008-09, claiming the following substantial questions of law:

"A. Whether the hon''ble Income-tax Appellate Tribunal, Amritsar Bench, Amritsar, was justified in accepting the reason for withdrawal and subsequently deposit of in the savings bank account pertains to purchase of some property which ultimately not materialised without any documentary evidence?

B. Whether the Income-tax Appellate Tribunal was justified in deleting the addition of Rs. 43,01,000 in the case wherein the assessee has failed to furnish the sources of deposits of Rs. 43,01,000 in the savings bank account before the Assessing Officer and even before the learned Commissioner of Income-tax (Appeals) in violation of the decision of the hon''ble Supreme Court in the case of Roshan Di Hatti Vs. Commissioner of Income Tax, Delhi, wherein it has been held that where nature and

source of receipt, whether it be on money or other property should be satisfactorily explained by the assessee?"

Put shortly, the facts necessary for disposal of the present appeal, as mentioned therein, are that the assessee filed his return of income on April 15, 2009, declaring a total income of Rs. 3,67,300 and agriculture income at Rs. 7,00,000. The said return was processed under section 143(1) of the Act on March 23, 2010, and the case was selected for scrutiny. During the course of assessment proceedings, the assessee was asked to explain the sources of investment amounting to Rs. 43,01,000 in his bank accounts. The assessee having failed to furnish satisfactory explanation, the said amount was added in the total income of the assessee. Accordingly, the Assessing Officer, vide order dated December 29, 2010 (annexure A-1), framed the assessment on the total taxable income at Rs. 53,99,610 including the agricultural income of Rs. 7,00,000 treating the same as income from undisclosed sources. Feeling aggrieved, the assessee filed an appeal before the Commissioner of Income-tax (Appeals) (for brevity, "the CIT(A)"). The Commissioner of Income-tax (Appeals), vide order dated January 2, 2012 (annexure A-2), confirmed the addition of Rs. 43,01,000 made by the Assessing Officer. Further, the Commissioner of Income-tax (Appeals) while confirming the agricultural income as income from undisclosed sources up to Rs. 50,000 directed the Assessing Officer to assess Rs. 6,50,000 as the agricultural income for rate purposes only. Still dissatisfied, the assessee filed an appeal before the Tribunal who, vide order dated September 27, 2012 (annexure A-3), deleted the addition of Rs. 43,01,000 made by the Assessing Officer and confirmed by the Commissioner of Income-tax (Appeals). Hence, the present appeal by the Revenue.

2. Learned counsel for the appellant submitted that the Tribunal, while reversing the findings of the Assessing Officer and the Commissioner of Income-tax (Appeals), had not passed the reasoned speaking order which is the mandate as laid down by the hon''ble apex court.

3. As per the office report, the respondent has been served but no one has chosen to appear and defend the order passed by the Tribunal.

4. After hearing the learned counsel for the appellant, we find merit in the submission of the learned counsel for the Revenue.

5. The hon''ble apex court in Kranti Associates Pvt. Ltd. and Another Vs. Sh. Masood Ahmed Khan and Others, , while dealing with the requirement of passing a reasoned order by an authority whether administrative, quasi judicial or judicial, had laid down as under:

"51. Summarising the above discussion, this court holds:

(a) In India the judicial trend has always been to record reasons, even in administrative decisions, if such decisions affect anyone prejudicially.

(b) A quasi-judicial authority must record reasons in support of its conclusions.

(c) Insistence on recording of reasons is meant to serve the wider principle of justice that justice must not only be done it must also appear to be done as well.

(d) Recording of reasons also operates as a valid restraint on any possible arbitrary exercise of judicial and quasi-judicial or even administrative power.

(e) Reasons reassure that discretion has been exercised by the decision maker on relevant grounds and by disregarding extraneous considerations.

(f) Reasons have virtually become as indispensable a component of a decision-making process as observing principles of natural justice by judicial, quasi-judicial and even by administrative bodies.

(g) Reasons facilitate the process of judicial review by superior courts.

(h) The ongoing judicial trend in all countries committed to rule of law and constitutional governance is in favour of reasoned decisions based on relevant facts. This is virtually the life blood of judicial decision making justifying the principle that reason is the soul of justice.

(i) Judicial or even quasi-judicial opinions these days can be as different as the judges and authorities who deliver them. All these decisions serve one common purpose which is to demonstrate by reason that the relevant factors have been objectively considered. This is important for sustaining the litigants'' faith in the justice delivery system.

(j) Insistence on reason is a requirement for both judicial accountability and transparency.

(k) If a judge or a quasi-judicial authority is not candid enough about his/her decision making process then it is impossible to know whether the person deciding is faithful to the doctrine of precedent or to principles of incrementalism.

(l) Reasons in support of decisions must be cogent, clear and succinct. A pretence of reasons or ''rubber-stamp reasons'' is not to be equated with a valid decision making process.

(m) It cannot be doubted that transparency is the sine qua non of restraint on abuse of judicial powers. Transparency in decision making not only makes the judges and decision makers less prone to errors but also makes them subject to broader scrutiny (see David Shapiro in Defence of Judicial Candor (1987) 100 Harward Law Review 731-737).

(n) Since the requirement to record reasons emanates from the broad doctrine of fairness in decision making, the said requirement is now virtually a component of human rights and was considered part of Strasbourg Jurisprudence, See Ruiz Torija v. Spain [1994] 19 EHRR 553 at 562 para 29 and Anya v. University of Oxford [2001]

EWCA Civ 405 (CA), wherein the court referred to article 6 of the European Convention of Human Rights which requires,

''adequate and intelligent reasons must be given for judicial decisions''.

(o) In all common law jurisdictions judgments play a vital role in setting up precedents for the future. Therefore, for development of law, requirement of giving reasons for the decision is of the essence and is virtually a part of ''due process''."

6. It would be apposite to refer to the order of the Tribunal dated September 27, 2012, which would show that the Tribunal has in paragraph 7 thereof noticed the contentions of the parties and accepted the appeal of the assessee without giving any cogent and convincing reasons. It reads thus:

"We have heard the rival contentions and perused the facts of the case. We are convinced with the explanation given by the assessee before the authorities below that the assessee had declared all the income earned from salary, rent and other sources and agricultural income. There is no dispute to such credits. The assessee had been filing returns of income for the last many years and the copies of acknowledgments since 2001-02 are placed on record. As regards the cash deposits found in the three different bank accounts, the assessee had submitted cash flow statement which has not been considered by either of the authorities below. The assessee had submitted the explanation that the cash has been withdrawn for purchase of some property which ultimately had not been materialised and the cash was deposited back as per the requirement in the bank account. There is nothing on record brought out by either of the lower authorities that cash has been invested elsewhere. Therefore, in the facts and circumstances of the case, the Assessing Officer is not justified in treating the cash deposits as unexplained and the same cannot be added to the income of the assessee. The Assessing Officer is directed to delete the additions so made and the order of the learned Commissioner of Income-tax (Appeals) is accordingly reversed. Thus, all the grounds of the appeal of the assessee are allowed."

Therefore, the order dated September 27, 2002, does not satisfy the requirements of being a reasoned order as enunciated by the apex court noticed hereinabove. Thus, the substantial questions of law stand answered accordingly. Consequently, after setting aside the order of the Tribunal dated September 27, 2012, which is passed in violation of the principles of natural justice as per the law laid down by the apex court as mentioned above, the matter is remanded to the Tribunal to decide afresh after affording an opportunity of hearing to the parties in accordance with law. As a result, the appeal is allowed.